

Memorandum



To : Richard Johnson
Deputy Director
Property Tax Department

Date: December 1, 1997

From : Janet Saunders
Tax Counsel

Subject: Appraisal certificate requirements for county assessors

This is in response to your October 10, 1997 memo to Larry Augusta wherein you pose the following question:

Are the county assessors required to meet an annual training requirement?

Our answer is yes, there is an annual training requirement which must be met in order to retain a valid appraiser's certificate. This requirement applies to county assessors taking office after January 1, 1997. It also applies to county assessors, if any, who were in office on January 1, 1997, and who hold a valid appraiser's certificate and wish to maintain the validity of their certificate.

Analysis

As background, Government Code section 24002.5, subdivision (a) provides:

No person shall exercise the powers and duties of the office of assessor unless he or she holds a valid appraiser's certificate issued by the State Board of Equalization pursuant to Article 8 (commencing with Section 670) ... of the Revenue and Taxation Code.

Subdivision (b) of this Government Code section provides for a temporary appraiser's certificate for an assessor; subdivision (c) exempts from this requirement "any person holding the office of assessor on January 1, 1997."

12/2/97 - Mark Buckley
Bern Davis
Ron Flaynshi

Revenue and Taxation Code section 670 provides for the issuance of an appraiser's certificate upon the satisfactory passing of an examination and certain demonstrated competence. While it did not previously apply to assessors, Stats. 1997, Ch. 940, in effect January 1, 1998, amended subdivisions (d) and (e) of this section. Subdivision (e) of section 670 provides:

Except for person's holding the office of assessor, this section does not apply to elected officials. (Amended portion underlined.)

Revenue and Taxation Code section 671, subdivision (a) provides:

In order to retain a valid appraiser's certificate every holder shall complete at least 24 hours of training conducted or approved by the State Board of Equalization in each one-year period.¹

* * * [Training in excess of this amount may be carried over.]

Failure to receive such training shall constitute grounds for revocation of an appraiser's certificate; provided, however, that proceedings to revoke shall be conducted in accordance with the Administrative Procedure Act [commencing with section 11500 of the Government Code]. (Emphasis added.)

....

Thus, based on Revenue and Taxation Code section 671, subdivision (a), third paragraph, if a county assessor (taking office after January 1, 1997) does not meet the requirement for annual training, his or her appraiser's certificate may be revoked.

We call your attention to the emphasized portion of Revenue and Taxation Code section 671; the statute does not say that the appraiser's certificate "shall be revoked" upon failure to take such training. Nevertheless, we would advise assessors to take this training in order to avoid the possibility of proceedings taken pursuant to the Administrative Procedure Act: Failure to receive such training shall constitute grounds for revocation of an appraiser's certificate.

On another note, Rule 283 is captioned "Permanent Certification." The word "permanent" may be misleading; a "permanent certificate" may be revoked if the annual educational requirements pursuant to Revenue and Taxation Code section 671 are not met.

¹ Please refer to this statute for provisions related to carryover for training in excess of the 24-hour minimum.

Thus, with the exception of county assessors in office as of January 1, 1997, county assessors must obtain a temporary certificate or certificate pursuant to Revenue and Taxation Code section 670 and must take annual training to avoid revocation of that certificate pursuant to Revenue and Taxation Code section 671.

In your memo, you state that because of the Kopp bill, many of the assessors who were not already certified made the effort to become certified. If an assessor who was in office on January 1, 1997, holds a certificate, he or she must meet the minimal training requirement to keep the certificate current.

JS:jd

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cc: Policy, Planning & Standards, MIC:64